



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/587,444      | 07/03/2007  | Janet Boggs          | CT0014USPCT4        | 5364             |

23906 7590 01/22/2010  
E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
BARLEY MILL PLAZA 25/1122B  
4417 LANCASTER PIKE  
WILMINGTON, DE 19805

|          |
|----------|
| EXAMINER |
|----------|

MRUK, BRIAN P

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1796

|                   |               |
|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

01/22/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/587,444 | <b>Applicant(s)</b><br>BOGGS ET AL. |  |
|                              | <b>Examiner</b><br>Brian P. Mruk     | <b>Art Unit</b><br>1796             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5 and 7-36 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Upon careful consideration, it has been determined that the previous Election/Restriction made by the examiner was incorrect. Specifically, it has been determined by the examiner that instant claims 1-5 and 7-36 **contain two distinct species (i.e. the variables  $R_f$  and  $Q_s$ ), which both require an election**. Accordingly, the previous Election/Restriction made by the examiner in Paper No. 20090826 is hereby **vacated** in favor of the following new Election/Restriction.

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

1) **For independent claim 1**, the following species exist for the variable  **$R_f$** :

- A)  $R_f$  is the structure represented in claim 20 (minus  $Q_s$ );
- B)  $R_f$  is the structure represented in claim 21 (minus  $Q_s$ );
- C)  $R_f$  is the structure represented in claim 22 (minus  $Q_s$ );
- D)  $R_f$  is the structure represented in claim 23 (minus  $Q_s$ );
- E)  $R_f$  is the structure represented in claim 24 (minus  $Q_s$ );
- F)  $R_f$  is the structure represented in claim 25 (minus  $Q_s$ );
- G)  $R_f$  is the structure represented in claim 26 (minus  $Q_s$ );

- H)  $R_f$  is the structure represented in claim 27 (minus  $Q_s$ );
- I)  $R_f$  is the structure represented in claim 28 (minus  $Q_s$ );
- J)  $R_f$  is the structure represented in claim 29 (minus  $Q_s$ );
- K)  $R_f$  is the structure represented in claim 30 (minus  $Q_s$ );
- L)  $R_f$  is the structure represented in claim 31 (minus  $Q_s$ );
- M)  $R_f$  is the structure represented in claim 32 (minus  $Q_s$ );
- N)  $R_f$  is the structure represented in claim 33 (minus  $Q_s$ );
- O)  $R_f$  is the structure represented in claim 34 (minus  $Q_s$ );
- P)  $R_f$  is the structure represented in claim 35 (minus  $Q_s$ );

2) **For independent claim 1**, the following species exist for the variable  **$Q_s$** :

- A)  $Q_s$  is the structure represented in claim 13 (minus  $R_f$ );
- B)  $Q_s$  is the structure represented in claim 14 (minus  $R_f$ );
- C)  $Q_s$  is the structure represented in claim 15 (minus  $R_f$ );
- D)  $Q_s$  is the structure represented in claim 16 (minus  $R_f$ );
- E)  $Q_s$  is the structure represented in claim 17 (minus  $R_f$ );
- F)  $Q_s$  is the structure represented in claim 18 (minus  $R_f$ );
- G)  $Q_s$  is the structure represented in claim 19 (minus  $R_f$ );

3. Applicant is required, in reply to this action, **to elect a single species for each of the variables  $R_f$  and  $Q_s$**  to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must **also identify the claims readable on the**

Art Unit: 1796

**elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The following claim(s) are generic: Claims 1-4 and 36 are generic to all of the claims. Claim 5 is generic to claims 20-35. Claim 7 is generic to claims 34 and 35. Claim 8 is generic to claims 34 and 35. Claim 9 is generic to claims 20, 22-29 and 32-35. Claim 10 is generic to claims 22-24, 26-29, 32 and 33. Claim 11 is generic to claims 26, 27, 32 and 33. Claim 12 is generic to claims 20-35.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Prior art that would anticipate or render obvious one of the possibilities for the combination of species  $R_f-Q_s$  would not necessarily anticipate or render obvious the other species.

6. A telephone call was made to Anthony Chi on January 15, 2010 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention for **each of the variables  $R_f$  and  $Q_s$**  to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P Mruk/  
Primary Examiner, Art Unit 1796

Brian P Mruk  
January 16, 2010

Brian P Mruk  
Primary Examiner  
Art Unit 1796